

**IN THE UNITED STATES DISTRICT FOR
THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

CONNOR and **AMANDA**
ELLIOTT, individually and as next
friend of **N.E.**, their minor child,

Plaintiffs

vs.

UNITED STATES OF AMERICA,

Defendant

NO. 1:19-CV-00427-LY

**UNOPPOSED MOTION TO APPOINT GUARDIAN AD
LITEM**

Plaintiffs request the Court appoint Chip Evans as guardian ad litem for minor child N.R., for the limited purpose of reviewing a settlement agreement affecting the resolution of this case and ensuring no conflict of interest exists.

BACKGROUND

This is a medical malpractice case. N.E. suffered severe and irreversible injury during labor and delivery at Darnell Army Community Hospital. His parents, Connor and Amanda Elliott, filed this lawsuit individually and on behalf of N.E.

The Parties to this lawsuit reached a proposed settlement that requires the Court's approval prior to review and decision by the Attorney General or

his designee. Because N.E. is a minor child, Plaintiffs request that the Court appoint a guardian ad litem to protect the interests of N.E. for the limited purpose of reviewing the settlement agreement and determining that this settlement is in N.E.'s best interest.

ANALYSIS

Under Fed. R. Civ. P. 17(c), the Court may appoint a guardian ad litem in its discretion where the Court believes the appointment to be in the best interest of a disabled individual. *Scannavino v. Fla. Dep't of Corrections*, 242 F.R.D. 662, 666-67 (M.D. Fla. 2007). Here, both parents are parties. As a term of settlement, the United States requires Plaintiffs to obtain court approval of the settlement. An independent guardian ad litem will help the Court determine whether the settlement is within the best interests of N.E.

Plaintiffs request the Court appoint Chip Evans, Evans & Herlihy Law Firm, 4407 Bee Caves Rd., Suite 611, Austin, TX 78746, as an appropriate guardian ad litem for N.E. Plaintiffs have conferred with the United States and they do not oppose this appointment. Mr. Evans is licensed attorney in Texas and has considerable experience in serving as guardian for these types of cases. He is also board certified in Personal Injury Trial Law by the Texas Board of Legal Specialization. Plaintiffs reached out to Mr. Evans, and he is willing to accept this appointment as guardian ad litem, should the Court approve this motion.

CONCLUSION

Plaintiffs request that the Court appoint Chip Evans as guardian ad litem to review the settlement in the above styled case and report to the Court on his review.

Respectfully Submitted,

/s/ Jamal K. Alsaffar

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Attorneys for the Plaintiffs

CERTIFICATE OF CONFERENCE

By my signature above, Plaintiffs have conferred with the Government and the Government does not oppose this motion.

CERTIFICATE OF SERVICE

By my signature above, I certify that a copy of this pleading, Unopposed Motion to Appoint Guardian ad Litem, has been sent to the following on July 1, 2021 via the Court's CM/ECF notice system.

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